

Application No. 09/912,266
Reply to Office Action dated October 3, 2003

Amendments to the Claims:

This listing of claims will replace all prior versions and listings of claims in the application:

Listing of Claims:

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1-8. (Canceled)

9. (Currently Amended) A method for ~~detecting viable cells~~ determining the percentage of viable cells in a sample, comprising:

(a) providing a sample containing cells;

(b) determining an amount of viable cells in said sample by contacting said sample with a dye that diffuses or is transported into said cells, and wherein said dye is detectably altered by enzymatic activity of a viable cell containing said dye, thereby indicating the amount of viable cells in the sample;

(c) determining a total amount of viable and non-viable cells in said sample by a method selected from the group consisting of native UV (ultra-violet) absorption, turbidity testing, hemacytometer measurements, fluorescence, and dye exclusion; and

(d) comparing the amount of viable cells determined in step (b) to the total amount of cells determined in step (c) to determine the percentage of viable cells in the sample.

10. (Original) The method of claim 9, wherein said cells are bacteria.

11. (Original) The method of claim 9, wherein said cells are yeast.

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12. (Canceled)

13. (Currently Amended) The method of claim 129, wherein said total cell count amount is determined by native UV absorption.

14. (Original) The method of claim 9, wherein the enzymatic activity is esterase activity.

15. (Previously Presented) The method of claim 9, wherein said enzymatically altered dye or molecule comprises fluorescein diacetate or OREGON GREEN™ (2',7'-difluorofluorescein).

16. (Previously Presented) The method of claim 9, wherein detection is performed by a fluorometer.

17. - 26. (Canceled)

27. (Currently Amended) A kit for quantifying-determining percent viability of yeast or bacteria in a sample, comprising a cell suspension solution, a cell penetrating dye, and instructions for carrying out the method for-detecting-dye-that-correlates-to-hemocytometer counts, plate counts or other methods of counting viable cells of claim 9, wherein said dye is detectably altered by enzymatic activity of a viable cell containing said dye.

28. - 33. (Canceled)